

1 AN ACT in relation to local government.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Counties Code is amended by changing
5 Section 5-1062 as follows:

6 (55 ILCS 5/5-1062) (from Ch. 34, par. 5-1062)

7 Sec. 5-1062. Stormwater management.

8 (a) The purpose of this Section is to allow management
9 and mitigation of the effects of urbanization on stormwater
10 drainage in metropolitan counties located in the area served
11 by the Northeastern Illinois Planning Commission, and
12 references to "county" in this Section shall apply only to
13 those counties. This Section shall not apply to any county
14 with a population in excess of 1,500,000, except as provided
15 in subsection (c). The purpose of this Section shall be
16 achieved by:

17 (1) consolidating the existing stormwater
18 management framework into a united, countywide structure;

19 (2) setting minimum standards for floodplain and
20 stormwater management; and

21 (3) preparing a countywide plan for the management
22 of stormwater runoff, including the management of natural
23 and man-made drainageways. The countywide plan may
24 incorporate watershed plans.

25 (b) A stormwater management planning committee shall be
26 established by county board resolution, with its membership
27 consisting of equal numbers of county board and municipal
28 representatives from each county board district, and such
29 other members as may be determined by the county and
30 municipal members. However, if the county has more than 6
31 county board districts, the county board may by ordinance

1 divide the county into not less than 6 areas of approximately
2 equal population, to be used instead of county board
3 districts for the purpose of determining representation on
4 the stormwater management planning committee.

5 The county board members shall be appointed by the
6 chairman of the county board. Municipal members from each
7 county board district or other represented area shall be
8 appointed by a majority vote of the mayors of those
9 municipalities which have the greatest percentage of their
10 respective populations residing in such county board district
11 or other represented area. All municipal and county board
12 representatives shall be entitled to a vote; the other
13 members shall be nonvoting members, unless authorized to vote
14 by the unanimous consent of the municipal and county board
15 representatives. A municipality that is located in more than
16 one county may choose, at the time of formation of the
17 stormwater management planning committee and based on
18 watershed boundaries, to participate in the stormwater
19 management planning program of either or both of the
20 counties. Subcommittees of the stormwater management planning
21 committee may be established to serve a portion of the county
22 or a particular drainage basin that has similar stormwater
23 management needs. The stormwater management planning
24 committee shall adopt by-laws, by a majority vote of the
25 county and municipal members, to govern the functions of the
26 committee and its subcommittees. Officers of the committee
27 shall include a chair and vice chair, one of whom shall be a
28 county representative and one a municipal representative.

29 The principal duties of the committee shall be to develop
30 a stormwater management plan for presentation to and approval
31 by the county board, and to direct the plan's implementation
32 and revision. The committee may retain engineering, legal and
33 financial advisors and inspection personnel. The committee
34 shall meet at least quarterly and shall hold at least one

1 public meeting during the preparation of the plan and prior
2 to its submittal to the county board.

3 (c) In the preparation of a stormwater management plan,
4 a county stormwater management planning committee shall
5 coordinate the planning process with each adjoining county to
6 ensure that recommended stormwater projects will have no
7 significant impact on the levels or flows of stormwaters in
8 inter-county watersheds or on the capacity of existing and
9 planned stormwater retention facilities. An adopted
10 stormwater management plan shall identify steps taken by the
11 county to coordinate the development of plan recommendations
12 with adjoining counties.

13 (d) Before the stormwater management planning committee
14 recommends to the county board a stormwater management plan
15 for the county or a portion thereof, it shall submit the plan
16 to the Office of Water Resources of the Department of Natural
17 Resources and to the Northeastern Illinois Planning
18 Commission for review and recommendations. The Office and
19 the Commission, in reviewing the plan, shall consider such
20 factors as impacts on the levels or flows in rivers and
21 streams and the cumulative effects of stormwater discharges
22 on flood levels. The Office of Water Resources shall
23 determine whether the plan or ordinances enacted to implement
24 the plan complies with the requirements of subsection (f).
25 Within a period not to exceed 60 days, the review comments
26 and recommendations shall be submitted to the stormwater
27 management planning committee for consideration. Any
28 amendments to the plan shall be submitted to the Office and
29 the Commission for review.

30 (e) Prior to recommending the plan to the county board,
31 the stormwater management planning committee shall hold at
32 least one public hearing thereon and shall afford interested
33 persons an opportunity to be heard. The hearing shall be
34 held in the county seat. Notice of the hearing shall be

1 published at least once no less than 15 days in advance
2 thereof in a newspaper of general circulation published in
3 the county. The notice shall state the time and place of the
4 hearing and the place where copies of the proposed plan will
5 be accessible for examination by interested parties. If an
6 affected municipality having a stormwater management plan
7 adopted by ordinance wishes to protest the proposed county
8 plan provisions, it shall appear at the hearing and submit in
9 writing specific proposals to the stormwater management
10 planning committee. After consideration of the matters
11 raised at the hearing, the committee may amend or approve the
12 plan and recommend it to the county board for adoption.

13 The county board may enact the proposed plan by
14 ordinance. If the proposals for modification of the plan
15 made by an affected municipality having a stormwater
16 management plan are not included in the proposed county plan,
17 and the municipality affected by the plan opposes adoption of
18 the county plan by resolution of its corporate authorities,
19 approval of the county plan shall require an affirmative vote
20 of at least two-thirds of the county board members present
21 and voting. If the county board wishes to amend the county
22 plan, it shall submit in writing specific proposals to the
23 stormwater management planning committee. If the proposals
24 are not approved by the committee, or are opposed by
25 resolution of the corporate authorities of an affected
26 municipality having a municipal stormwater management plan,
27 amendment of the plan shall require an affirmative vote of at
28 least two-thirds of the county board members present and
29 voting.

30 (f) The county board may prescribe by ordinance
31 reasonable rules and regulations for floodplain management
32 and for governing the location, width, course and release
33 rate of all stormwater runoff channels, streams and basins in
34 the county, in accordance with the adopted stormwater

1 management plan. These rules and regulations shall, at a
2 minimum, meet the standards for floodplain management
3 established by the Office of Water Resources and the
4 requirements of the Federal Emergency Management Agency for
5 participation in the National Flood Insurance Program.

6 (g) In accordance with, and if recommended in, the
7 adopted stormwater management plan, the county board may
8 adopt a schedule of fees as may be necessary to mitigate the
9 effects of increased stormwater runoff resulting from new
10 development. The fees shall not exceed the cost of
11 satisfying the onsite stormwater retention or detention
12 requirements of the adopted stormwater management plan. The
13 fees shall be used to finance activities undertaken by the
14 county or its included municipalities to mitigate the effects
15 of urban stormwater runoff by providing regional stormwater
16 retention or detention facilities, as identified in the
17 county plan. All such fees collected by the county shall be
18 held in a separate fund, and shall be expended only in the
19 watershed within which they were collected.

20 (h) For the purpose of implementing this Section and for
21 the development, design, planning, construction, operation
22 and maintenance of stormwater facilities provided for in the
23 stormwater management plan, a county board that has
24 established a stormwater management planning committee
25 pursuant to this Section may cause an annual tax of not to
26 exceed 0.20% of the value, as equalized or assessed by the
27 Department of Revenue, of all taxable property in the county
28 to be levied upon all the taxable property in the county.
29 The tax shall be in addition to all other taxes authorized by
30 law to be levied and collected in the county and shall be in
31 addition to the maximum tax rate authorized by law for
32 general county purposes. The 0.20% limitation provided in
33 this Section may be increased or decreased by referendum in
34 accordance with the provisions of Sections 18-120, 18-125,

1 and 18-130 of the Property Tax Code.

2 Any revenues generated as a result of ownership or
3 operation of facilities or land acquired with the tax funds
4 collected pursuant to this subsection (h) shall be held in a
5 separate fund and be used either to abate such property tax
6 or for implementing this Section.

7 However, unless at least part of the county has been
8 declared after July 1, 1986 by presidential proclamation to
9 be a disaster area as a result of flooding, the tax
10 authorized by this subsection (h) shall not be levied until
11 the question of its adoption, either for a specified period
12 or indefinitely, has been submitted to the electors thereof
13 and approved by a majority of those voting on the question.
14 This question may be submitted at any election held in the
15 county after the adoption of a resolution by the county board
16 providing for the submission of the question to the electors
17 of the county. The county board shall certify the resolution
18 and proposition to the proper election officials, who shall
19 submit the proposition at an election in accordance with the
20 general election law. If a majority of the votes cast on the
21 question is in favor of the levy of the tax, it may
22 thereafter be levied in the county for the specified period
23 or indefinitely, as provided in the proposition. The question
24 shall be put in substantially the following form:

25 -----
26 Shall an annual tax be levied
27 for stormwater management purposes YES
28 (for a period of not more than
29 years) at a rate not exceeding -----
30% of the equalized assessed
31 value of the taxable property of NO
32 County?
33 -----

34 (h-5) Storm water management plan service fees.

1 (A) In accordance with, and if recommended in, the
2 adopted stormwater management plan, the county board may,
3 by ordinance, establish rates and service fees to be
4 assessed upon the property that is served by the
5 stormwater drainage system. No stormwater management
6 plan service fees may be imposed upon public roads or
7 highways. The service fees shall be used to plan and
8 implement the stormwater management plan. The service
9 fees may not be assessed until the stormwater management
10 planning committee develops and approves a stormwater
11 management financial plan. The financial plan must
12 include the following:

13 (1) A description of the 5-year costs of
14 implementing the stormwater management plan. The
15 land acquisition, capital facility, and maintenance
16 components must be categorized by watershed.

17 (2) A description of the direct relationship
18 between the service fees and the contribution of
19 stormwater runoff to the drainage system.

20 (3) A description of the process whereby
21 service fees will be calculated, assessed,
22 collected, and spent.

23 (4) A description of the costs to assess,
24 collect, and distribute the service fees.

25 (5) A plan to update regularly, including a
26 mandatory update every 5 years.

27 (6) A requirement that all updates be
28 subjected to a public hearing and a public review
29 process of 60 days prior to adoption with public
30 notice.

31 (B) Proceeds from the service fees may be used in
32 combination with property taxes to fund the
33 implementation of the stormwater management plan. All
34 costs to develop countywide planning must be financed by

1 a countywide assessment, either the property tax or a
2 base fee. If the service fees are used in combination
3 with property taxes, the proceeds of the service fees
4 must be used only for the watershed wherein the fees were
5 acquired. When property taxes are not used in
6 combination with the service fees, a base fee must be
7 used for countywide planning and the implementation of
8 the countywide portions of the stormwater management
9 plan. Service fees that are collected in addition to the
10 base fees must be used solely within the watershed in
11 which they were collected and only for the
12 watershed-specific portions of the stormwater management
13 plan. The total amount of revenue for stormwater
14 management including the service fee, the base fee, and
15 the taxes may not exceed 0.20% of the value of all
16 taxable property in the county as equalized or assessed
17 by the Department of Revenue. The total amount of
18 service fees and property taxes imposed upon an
19 individual parcel of private property may not exceed
20 0.20% of the property's equalized or assessed value.

21 (C) The service rates and fees shall be established
22 and revised, shall be due and payable, and shall be in
23 force as the county board, upon the recommendation of the
24 committee, determines by ordinance. Stormwater service
25 rates and fees established by the county board are not
26 subject to any regulations covering rates and fees for
27 similar services provided by privately owned entities.

28 In fixing the service rates and fees, the county
29 board may, upon recommendation of the committee, consider
30 the services furnished or to be furnished by the user of
31 the stormwater management system, the nature and extent
32 of the use of the land, the water runoff characteristics,
33 and any other matters that present a reasonable ground
34 for distinction between different parcels of property,

1 and may reduce fees based upon the contribution of the
2 property owner.

3 (D) A county shall have a lien for delinquent
4 stormwater fees, including interest on the delinquent
5 amount, against any property for which the service fees
6 were imposed. The lien shall be superior to all other
7 liens and encumbrances except general taxes and local and
8 special assessments.

9 (E) Service fees authorized by this subsection
10 (h-5) shall not be levied until the question of adoption
11 has been submitted to the electors thereof and approved
12 by a majority of those voting on the question. The
13 question may be submitted at any election held in the
14 county after the adoption of a resolution by the county
15 board providing for the submission of the question to the
16 electors of the county. The county board shall certify
17 the resolution and proposition to the proper election
18 authority which shall submit the question at an election
19 in accordance with the Election Code.

20 The question shall be in substantially the following
21 form:

22 "Shall a service fee be authorized for
23 stormwater management purposes for (number of years)
24 at a rate not to exceed (rate) of the equalized or
25 assessed value of the property in (name of county)?"

26 The vote must be recorded as "Yes" or "No". If a
27 majority of the votes cast on the question are in favor,
28 the service fee may be levied in the county for the time
29 period as provided in the question.

30 (i) Upon the creation and implementation of a county
31 stormwater management plan, the county may petition the
32 circuit court to dissolve any or all drainage districts
33 created pursuant to the Illinois Drainage Code or predecessor
34 Acts which are located entirely within the area of the county

1 covered by the plan.

2 However, any active drainage district implementing a plan
3 that is consistent with and at least as stringent as the
4 county stormwater management plan may petition the stormwater
5 management planning committee for exception from dissolution.
6 Upon filing of the petition, the committee shall set a date
7 for hearing not less than 2 weeks, nor more than 4 weeks,
8 from the filing thereof, and the committee shall give at
9 least one week's notice of the hearing in one or more
10 newspapers of general circulation within the district, and in
11 addition shall cause a copy of the notice to be personally
12 served upon each of the trustees of the district. At the
13 hearing, the committee shall hear the district's petition and
14 allow the district trustees and any interested parties an
15 opportunity to present oral and written evidence. The
16 committee shall render its decision upon the petition for
17 exception from dissolution based upon the best interests of
18 the residents of the district. In the event that the
19 exception is not allowed, the district may file a petition
20 within 30 days of the decision with the circuit court. In
21 that case, the notice and hearing requirements for the court
22 shall be the same as herein provided for the committee. The
23 court shall likewise render its decision of whether to
24 dissolve the district based upon the best interests of
25 residents of the district.

26 The dissolution of any drainage district shall not affect
27 the obligation of any bonds issued or contracts entered into
28 by the district nor invalidate the levy, extension or
29 collection of any taxes or special assessments upon the
30 property in the former drainage district. All property and
31 obligations of the former drainage district shall be assumed
32 and managed by the county, and the debts of the former
33 drainage district shall be discharged as soon as practicable.

34 If a drainage district lies only partly within a county

1 that adopts a county stormwater management plan, the county
2 may petition the circuit court to disconnect from the
3 drainage district that portion of the district that lies
4 within that county. The property of the drainage district
5 within the disconnected area shall be assumed and managed by
6 the county. The county shall also assume a portion of the
7 drainage district's debt at the time of disconnection, based
8 on the portion of the value of the taxable property of the
9 drainage district which is located within the area being
10 disconnected.

11 The operations of any drainage district that continues to
12 exist in a county that has adopted a stormwater management
13 plan in accordance with this Section shall be in accordance
14 with the adopted plan.

15 (j) Any county that has adopted a county stormwater
16 management plan under this Section may, after 10 days written
17 notice to the owner or occupant, enter upon any lands or
18 waters within the county for the purpose of inspecting
19 stormwater facilities or causing the removal of any
20 obstruction to an affected watercourse. The county shall be
21 responsible for any damages occasioned thereby.

22 (k) Upon petition of the municipality, and based on a
23 finding of the stormwater management planning committee, the
24 county shall not enforce rules and regulations adopted by the
25 county in any municipality located wholly or partly within
26 the county that has a municipal stormwater management
27 ordinance that is consistent with and at least as stringent
28 as the county plan and ordinance, and is being enforced by
29 the municipal authorities.

30 (l) A county may issue general obligation bonds for
31 implementing any stormwater plan adopted under this Section
32 in the manner prescribed in Section 5-1012; except that the
33 referendum requirement of Section 5-1012 shall not apply to
34 bonds issued pursuant to this Section on which the principal

1 and interest are to be paid entirely out of funds generated
2 by the taxes and fees authorized by this Section.

3 (m) The powers authorized by this Section may be
4 implemented by the county board for a portion of the county
5 subject to similar stormwater management needs.

6 (n) The powers and taxes authorized by this Section are
7 in addition to the powers and taxes authorized by Division
8 5-15; in exercising its powers under this Section, a county
9 shall not be subject to the restrictions and requirements of
10 that Division.

11 (o) Pursuant to paragraphs (g) and (i) of Section 6 of
12 Article VII of the Illinois Constitution, this Section
13 specifically denies and limits the exercise of any power
14 which is inconsistent herewith by home rule units in any
15 county with a population of less than 1,500,000 in the area
16 served by the Northeastern Illinois Planning Commission.
17 This Section does not prohibit the concurrent exercise of
18 powers consistent herewith.

19 (Source: P.A. 88-670, eff. 12-2-94; 89-445, eff. 2-7-96.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.